
By: **Delegates Brown, Amedori, Cane, Donoghue, Jameson, McComas,
McHale, Mitchell, O'Donnell, Owings, and Zirkin**

Introduced and read first time: February 7, 2003

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 14, 2003

CHAPTER _____

1 AN ACT concerning

2 **Statute of Limitations - Minors**

3 FOR the purpose of altering the ~~period~~ periods within which an action for damages for
4 certain injuries is required to be filed, if the claimant was under a certain age at
5 the time the injury was committed; providing for the application of this Act; and
6 generally relating to the limitations ~~period~~ periods for certain actions against
7 certain health care providers.

8 BY repealing and reenacting, with amendments,
9 Article - Courts and Judicial Proceedings
10 Section 5-109
11 Annotated Code of Maryland
12 (2002 Replacement Volume)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Courts and Judicial Proceedings**

16 5-109.

17 (A) IN THIS SECTION, "HEALTH CARE PROVIDER" HAS THE MEANING STATED
18 IN § 3-2A-01 OF THIS ARTICLE.

19 ~~(a)~~ (B) [An] EXCEPT AS PROVIDED IN SUBSECTION ~~(B)~~ (C) OF THIS SECTION,
20 AN action for damages for an injury arising out of the rendering of or failure to render

1 professional services by a health care provider, as defined in § 3-2A-01 of this article,
2 shall be filed within the earlier of:

3 (1) Five years of the time the injury was committed; or

4 (2) Three years of the date the injury was discovered.

5 [(b) Except as provided in subsection (c) of this section, if the claimant was
6 under the age of 11 years at the time the injury was committed, the time limitations
7 prescribed in subsection (a) of this section shall commence when the claimant reaches
8 the age of 11 years.

9 (c) (1) The provisions of subsection (b) of this section may not be applied to
10 an action for damages for an injury:

11 (i) To the reproductive system of the claimant; or

12 (ii) Caused by a foreign object negligently left in the claimant's
13 body.

14 (2) In an action for damages for an injury described in this subsection, if
15 the claimant was under the age of 16 years at the time the injury was committed, the
16 time limitations prescribed in subsection (a) of this section shall commence when the
17 claimant reaches the age of 16 years.]

18 ~~(B) IF THE CLAIMANT WAS UNDER THE AGE OF 18 AT THE TIME THE INJURY
19 WAS COMMITTED, AN ACTION FOR DAMAGES FOR AN INJURY ARISING OUT OF THE
20 RENDERING OF OR FAILURE TO RENDER PROFESSIONAL SERVICES BY A HEALTH
21 CARE PROVIDER, AS DEFINED IN § 3-2A-01 OF THIS ARTICLE, SHALL BE FILED
22 WITHIN THE LATER OF:~~

23 ~~(1) FIVE YEARS OF THE TIME THE INJURY WAS COMMITTED;~~

24 ~~(2) THREE YEARS OF THE DATE THE INJURY WAS DISCOVERED; OR~~

25 ~~(3) SIX MONTHS AFTER THE CLAIMANT REACHES THE AGE OF 18 YEARS.~~

26 (C) IF A CLAIMANT WAS UNDER THE AGE OF 11 YEARS AT THE TIME THE
27 INJURY WAS COMMITTED, AN ACTION FOR DAMAGES FOR AN INJURY ARISING OUT
28 OF THE RENDERING OF OR FAILURE TO RENDER PROFESSIONAL SERVICES BY A
29 HEALTH CARE PROVIDER:

30 (1) SUBJECT TO ITEM (2) OF THIS SUBSECTION, SHALL BE FILED BEFORE
31 THE CLAIMANT REACHES THE AGE OF 20 19 YEARS; OR

32 (2) FOR AN INJURY TO THE REPRODUCTIVE SYSTEM OF THE CLAIMANT
33 OR CAUSED BY A FOREIGN OBJECT NEGLIGENTLY LEFT IN THE CLAIMANT'S BODY,
34 SHALL BE FILED BEFORE THE CLAIMANT REACHES THE AGE OF 21 YEARS.

1 ~~{(d)}~~ ~~(C)~~ For the purposes of this section, the filing of a claim with the Health
2 Claims Arbitration Office in accordance with § 3-2A-04 of this article shall be
3 deemed the filing of an action.

4 ~~{(e)}~~ ~~(D)~~ The provisions of § 5-201 of this title that relate to a cause of action
5 of a minor may not be construed as limiting the application of subsection ~~(b)~~ (C) [or
6 (c)] of this section.

7 ~~{(f)}~~ ~~(E)~~ Nothing contained in this section may be construed as limiting the
8 application of the provisions of:

9 (1) § 5-201 of this title that relate to a cause of action of a mental
10 incompetent; or

11 (2) § 5-203 of this title.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
13 construed to apply only prospectively and may not be applied or interpreted to have
14 any effect on or application to any cause of action arising before the effective date of
15 this Act.

16 ~~SECTION 2-3.~~ SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
17 effect ~~October~~ June 1, 2003.